IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.6568 OF 2005

Suman Damodar Burkul ...Applicant.
V/s.
Ramesh Santaram Kongaonkar & Anr. ...Respondents.

Shri Shailesh Kantharia, adv. for the Applicant.
Smt.M.M.Deshmukh, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 2nd April, 2007.

P.C.:

1. Heard Mr.Shailesh Kantharia the learned counsel for the applicant.

2. By this application the applicant seeks relief to prefer appeal against the order of acquittal in the complaint filed by him under Section 138 of the Negotiable Instruments Act.

3. According to the applicant, who is original complainant, the accused respondent had issued a cheque of Rs.85,000/- on 15-1-1993 towards repayment of hand note taken by him. The cheque was deposited on 27-6-93 and was dishonoured on 28-6-1993. On 10-7-93 the complainant issued a notice to the accused respondent by registered post as well as under certificate of posting. He filed a complaint on 8-9-93. The learned Magistrate

held that if the notice dated 10-7-93 was sent on 13-7-93, it would not take more than 3 days for service. The accused was to make the payment within 15 days thereafter and under Section 142(b) of the Negotiable Instruments Act no Court shall take cognizance of the offence punishable under Section 138 except when the complaint is made within one month of the date on which cause of action arises under Clause (c) of the proviso to Section 138. The cause of action arises on expiry of 15 days from the date of service and the complaint should have been made within one month thereafter. The trial Court found that the complaint was barred by the period of limitation as it was filed on 8-9-93.

4. After perusal of the record, Mr.Kantharia the learned counsel for the applicant could not point out any fault in the approach of the trial Court.

5. Therefore, leave refused. Application stands rejected.

(J.H.Bhatia,J.)